Supreme Court, U.S.
FILED

991130 AUG 23 1999

OFFICE OF THE CLERK

DOCKET NO: _____

IN THE

SUPREME COURT OF THE UNITED STATES

HERBERT W.G. CLANTON,

Petitioner,

-VS-

PEOPLE OF REDFORD TOWNSHIP,

Respondent.

PETITION FOR WRIT OF CERTIORARI

from the

Michigan Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

HERBERT W.G. CLANTON
IN PROPRIA PERSONA
P.O. Box 6654
East Lansing, MI 48826
Phone: **NONE**

BEST AVAILABLE COPY

28 pp

QUESTIONS PRESENTED

This case address irregular conducts of Redford Township, the Michigan 17TH District Court, and the Michigan 3RD Circuit Court which do not in any way comply with judgment set in Supreme Courts' opinion of Widoff v. Disciplinary Bd. Of Supreme Court Of Pennsylvania, 1980, 420 A.2d 1151, 494 Pa. 129, appeal dismissed, certiorari denied 102 S.Ct. 1266, 455 U.S. 914, 71 L.Ed.2d.

1). Did the Michigan 17TH District Court refusal to receive correspondences, statements, payments, and/or documents being relevant, related, and/or subject to the Michigan Court Rules Of Appellant Procedures{ see MCR 7.101 et seq }, violate Petitioners RIGHTS GUARANTEED by Michigan Constitution et seq and/or the UNITED STATES CONSTITUTION et seq.

2). Did the Michigan 3RD Circuit Court err in the unjust dismissal of this Petitioners Appellate Review Petition et seq and/or Appeal Of Right et seq/et al, thus constituting violations of this Petitioners RIGHTS(S) GUARANTEED by the Michigan Constitution et seq and/or UNITED STATES CONSTITUTION et seq?

3). Are payments put forth in accordance with the Michigan Court Rules Of Appellate Procedure { see MCR 7.101 et seq }, MCR 7.101(C)(2)(d) et seq and/or MCR 7.101(F) et seq in accordance with the instructions of the

Court Reporter et seq proof and/or evidence that Herbert W.G. Clanton et seq, the Defendant/Defendant-Appellant et seq and/or this Petitioner et seq failed to perfect his appeal?

PARTIES TO THE PROCEEDING

The caption contains the names of the Petitioners. The Municipality of Redford Township is named. The Respondents not name are a minimum as follows: The Agents Of Redford Township, the Redford Township Police Department, Redford Township Police Department Agents and/or Officers. All relevant personal of Redford Township. All relevant personal of the Redford Township Police Department. The Michigan 17TH District Court et seq and related personal. And all known and/or unknown persons, et al.

TABLE OF CONTENTS

Page

COUNSEL ASSISTANCE REQUEST.....15
CONSTITUTIONAL PROVISIONS.....2
CONCISE STATEMENT.....v
DECISION BELOW.....1
JURISDICTION.....1,10
PARTIES TO THE PROCEEDINGS.....ii
PETITIONS.....6
QUESTIONS PRESENTED.....i
RELIEF.....9
STATEMENTS SUPPORTING PETITION.....10
TABLE OF CONTENTS..... i
TABLE OF AUTHORITIES CITED..... iii

REASON FOR GRATING THE WRIT.....6

I. THIS CASE INVOLVES CONDUCT OF A STATE COURT WHERE ADMINISTRATIVE POLICIES OF A DISTRICT COURT DO CONFLICT AND VIOLATE BASIC FUNDAMENTAL FEDERAL CONSTITUTIONAL RIGHTS, AND CONDUCTS OF STATE APPELLATE COURT WHEREAS TO RENDER DECISION WHICH FAIL TO CORRECT AND CONFLICT WITH THE EQUAL PROTECTION CLAUSE OF THE CONSTITUTION AND THE DUE PROCESS CLAUSE OF THE CONSTITUTION.

CONCLUSION.....

TABLE OF AUTHORITIES CITED

CASES

Page

Bolling v. Sharpe, App.D.C.1954, 74 S.Ct. 693, 347 U.S. 497, 98 L.Ed. 884, supplemented 75 S.Ct. 753 , 349 U.S. 294, 99 L.Ed. 1083.....6

Lee v. Habib, 1970, 424 F.2d 891, 137 U.S. App.D.C. 403.....8

Lee v. State Of Fla.1968, 88 S.Ct. 2096, 392 U.S. 378, 20 L.Ed.2d 1166.....10

McLaughlin v. Great Lakes Dredge & Dock Co., D.C.Ohio, 495 F. Supp. 857.....7

Ross v. Moffitt, N.C.1974, 94 S.Ct. 2437, 417 U.S. 600, 41 L.Ed.2d 341..... 6

Newbern v. Lake Lorelei, Inc.,
D.C.Ohio 1968, 308 F.Supp.407.....9

U.S. v. State Of Mich., D.C.Mich.
1978, 460 F.Supp. 637.....5

U.S. v. Patrick, C.C.Tenn.
1893,54 F.338.....8

Widoff v. Disciplinary Bd. Of Supreme
Court Of Pennsylvania, 1980, 420 A.2d
1151, 494 Pa. 129, appeal dismissed,
certiorari denied 102 S.Ct. 1266,
455 U.S. 914, 71
L.Ed.2d.....10

STATUTES

Michigan Statutes

Page
MCLA 600.8121/MSA 27A.8121.....7
MCLA 600.504/MSA 27A.504.....6

Michigan Court Rules

Page
MCR 7.101(C)(2)d) et seq.....5
MCR 7.101(F) et seq.....5
MCR 7.101(A)(1)et seq 5

Michigan Constitution

Page
Article I, Section 2 6,8,9,10
Article I, Section 13.....9
Article I, Section 17.....6,8,9,10
Article VI, Section 1.....7,9

TABLE OF AUTHORITIES CITED

United States Code

	Page
18 USCA 241 et seq	8
18 USCA 242 et seq	8
28 USCA 2101 et seq	4
28 USCA 102(a)(1) et seq	9

UNITED STATES CONSTITUTION

	Page
FIRST AMENDMENT	5,9
FIFTH AMENDMENT	8,9,10
FOURTEENTH AMENDMENT	6,8,9,10

CONCISE STATEMENTS

Herbert W.G. Clanton and/or the Defendant's Affirmative Relief Petition and/or Counter Suit is unchallenge by the Respondents.

The Michigan 17TH District Court being without jurisdiction and/or authority allege dismissal of Defendant's Affirmative Relief Petition and/or Counter Suit.

Herbert W.G. Clanton and/or the Defendant/Defendant-Appellant et seq commence Appellate Review Petition and/or Appeal Of Right to the Michigan 3RD Circuit Court where the refusal of the Michigan 17TH District Court refused put forth an order in accordance with the Herbert W.G. Clanton and/or the Defendant/ Defendant-Appellant et seq RIGHTS GUARANTEED by the Michigan Constitution et seq and/or the UNITED STATES CONSTITUTION et seq.

The Defendant/Defendant-Appellant and/or this Petitioner et seq did put forth payment for transcripts pursuant to the instruction of the Court Reporter.

The unjust conducts of the Michigan 17TH District Court resulting in refusal to receive payments for transcripts and/or related correspondences from Herbert W.G. Clanton et seq and/or the Defendant/Defendant-Appellant et seq are not justification for the false and/or fraudulent declaration(s) that Herbert W.G. Clanton et seq, the Defendant/ Defendant-Appellant et seq, and/or this Petitioner are in violation(s) of MCR 7.101(C)(2)(d) and/or MCR 7.101(F), that Appeal Of Right et seq/et al is dismiss for failure to Perfect Appeal,

AND IN ACKNOWLEDGMENT, of the fact that at a minimum MCR 7.101(N) do define means by which the 3RD Circuit Court/MSA 600.504/MSA 27A.504 et seq{ HON. Jeanne Stempien, see Article VI, Section 1 Michigan Constitution et seq } can overrule all obstructions to the Appellate Process, the statements, declarations, and/or orders dismissing Appeal Of Rights et seq under allegation of violation of MCR 7.101(C)(2)(d) and/or MCR 7.101(F) do at a minimum constitute criminal acts in violation of 18 USCA 241 et seq and/or 18 USCA 242 et seq, see U.S. v. Cooney, D.C.Colo.1963, 217 F.Supp. 417.

A REMAND to the United States Federal District Court{ see 28 USCA 102(a)(1) et seq } would be appropriate pursuant to the establishment for the public record of disclosures of unjust conducts and/or false actions of the Michigan 17TH District Court, the Michigan 3RD Circuit Court, the Michigan Court Of Appeals, and/or the Michigan Supreme Court put forth in violations of the benefits and/or RIGHTS GUARANTEED Herbert W.G. Clanton, the Defendant/ Defendant-Appellant, and/or this Petitioner by the Michigan Constitution et seq and/or the UNITED STATES CONSTITUTION et seq.

The United States Supreme Court et seq is vested with the authority to provide remedy and/or enforce Petitioners RIGHTS GUARANTEED by the UNITED STATES CONSTITUTION et seq.

DOCKET NO:_____

IN THE
SUPREME COURT OF THE UNITED STATES

HERBERT W.G. CLANTON,

Petitioner,

-VS-

PEOPLE OF REDFORD TOWNSHIP,

Respondent.

PETITION FOR WRIT OF CERTIORARI
from the
Michigan Court Of Appeals
PETITION FOR WRIT OF CERTIORARI

DECISIONS BELOW

The decision of the Michigan Supreme Court filed on January 26, 1999 is reproduced at Appendix (App)B, was review May 25,1999 and is reproduced at Appendix (app) A,Michigan Supreme Court Docket No:112620. The decision of the Michigan Court Of Appeal of January 8, 1998 is reproduced at Appendix (App) C. The decision of the Wayne County Circuit Court of February 21, 1997 Order Dismissing Appeal is reproduce at Appendix (App) D.

JURISDICTION

The orders of Michigan Court Of Appeals, review of which is sought was entered January 8, 1998, and Appellants Judgments was entered on this court has at a minimum jurisdiction over this

matter pursuant to 28 USCA 1257 et seq and/or the Supremacy Clause , Art. III, Art. IV.

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

The Federal Constitutional Provisions at issue in this matter are the First Amendment, the Fifth Amendment, and the Fourteenth Amendment to the UNITED STATES CONSTITUTION. The First Amendment provides in part: "No law abridging the freedom of speech and No law abridging the right of the people to petition the Government for redress of grievances." The Fifth Amendment provides in part: "(N)or be deprived of life, liberty, or property without due process of law." The Fourteenth Amendment provides in part: "(N)or shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within the jurisdiction the equal protection of the laws." The Seventh Amendment provides in part: 'In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by Jury shall be preserved." The Ninth Amendment provides "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Also a minimum of Michigan Statute at issue are Article I, Section 2 Mich. Const, Article I, Sect. 13 Mich. Const, and Article I, Section 17 Mich. Const.

STATEMENT OF THE CASE

A. Procedural History:

The Person of Herbert W.G. Clanton while west bound from Detroit to East Lansing On Interstate I96 found road conditions required a speed of not greater than Forty Seven and a Half Miles per hour(47.5 mph). After being passed by two cars and one late model Chevy Truck, the person of Herbert W.G. Clanton moved to the side of the highway as required when persued by agents of a police agency.

Then Herbert W.G. Clanton was served with a citation alleging that Herbert W.G. Clanton was doing in excess of Seventy Miles Per Hour(70.0 mph) in as Fifty Five Zone(55mph).

Where Herbert W.G. Clanton appearing for an informal hearing in the 17TH District Court and refusing to let his motion for dismissal go ignored was forced to demand that the court disclose its finding regarding the motion for dismissal.

Where the refused to even see the motion, a ruling against Herbert W.G. Clanton was entered.

The Affirmative Relief Petition was put forth when informed that a formal hearing had been schedule, and the then Plaintiffs failed to opposed.

After Herbert W.G. Clanton did inform the Plaintiffs and their Counsel

that Plaintiff attempts to put forth false testimony would be subject to perjury statute, the formal hearing in the 17TH District Court resulting in a civil citation being dismiss as a criminal proceeding, with no resolutions to issue brought forth by Herbert W.G. Clanton.

After petition for summary judgment to remove proceedings to the Wayne County Circuit Court for lack of jurisdiction of the District Court and dismissal petition Judge Ryan improperly dismiss Herbert W.G. Clanton's Civil Suit.

The refusal of the 17TH District Court to put forth a order, defined the necessity of Herbert W.G. Clanton to make Appellate Review Petition and/or Appeal Of Right to the Wayne County Circuit Court.

The refusal of the 17TH District Court et seq to receive payment for transcripts and/or relevant documents, resulted in false orders against Herbert W.G. Clanton by the Wayne County Circuit Court, and no reversal by the Michigan Court Of Appeals and on reversal by the Michigan Supreme Court.

B. The Case:

The Affirmative Reliefs Petition and/or money damages sought by Herbert W.G. Clanton is timely and proper, and are unopposed and unchallenged by the People Of Redford Township et al.

The 17TH District Court is without authority to preside over money damages beyond it's jurisdiction.

Where Herbert W.G. Clanton cannot force the 17TH District Court to receive payment for transcripts and/or relevant correspondents, the false declarations of the Wayne County Circuit Court and/or the dismissal of Appeal Of Right, do at a minimum constitute violations of the Herbert W.G. Clanton rights guaranteed by the I Amendment United States Constitution, and/or the XIV Amendment United States Constitution.

The Michigan Court Of Appeals and/or the Michigan Supreme Court did at a minimum error in not correcting the conducts of the 17TH District Court whereas to refuse to receive payments for transcripts and relevant corresponds regarding Appellate Proceedings.

The orders of the Michigan Court Of Appeals and/or the Michigan Supreme Court whereas to not Correct the Wayne County Circuit Court unjust dismissal of Appeal Of Right are an extreme assaults against the I Amendment United States Constitution, V Amendment United States Constitution, XIV Amendment United States Constitution, and/or the United States Constitution in it's entirety.

This petition for certiorari is a plea to award Herbert W.G. Clanton relief sought, correct any and all

unjust conduct of judicial actions of the Michigan Department Of Justice, and to establish policies toward eliminating any inference with the Appellate Process.

REASON FOR GRANTING THE WRIT

Supreme Court Rule 10.(c) list among the considerations governing review on certiorari the circumstances when a state court of or a United States Court Of Appeals has decided an important question of federal law that has not been, but should be settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

PETITIONS

LET IT BE MADE KNOWN, Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner do put forth a minimum of statement(s) as follow(s):

1). The response of the 17TH District Court Reporter, do at a minimum show proof that Herbert W.G. Clanton , the Defendant-Appellant et seq, and/or this Petitioner et seq did order the transcripts and/or did conduct himself in accordance with MCR 7.101(C)(2)(d) and/or MCR 7.101(F), see I AMENDMENT UNITED STATES CONSTITUTION et seq.

2). That the 17TH District Court/MCLA 600.8121/MSA 27A.8121 et seq did refuse to receive this Petitioner

correspondences and/or payment for transcripts, do at a minimum show where orders of the 3RD Circuit Court/MCLA 600.504/MSA 27A.504 et seq are at a minimum misleading, false, fraudulent, and/or in violations of 18 USCA 241 et seq and/or 18 USCA 242 et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq.

3). The Michigan Court Of Appeals and/or the Michigan Supreme Court conducts, judgments, and/or orders whereas to sustain the Michigan 17TH District Court/MCLA 600.8121/MSA 27A.8121{ see Article VI, Section 1 Michigan Constitution } refusal to receive payment and/or correspondence from Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner do at a minimum constitute's reversible error and/or abuse of discretion, see XIV AMENDMENT UNITED STATES CONSTITUTION et seq.

4). The United States Federal District Court et seq{ see 28 USCA 102(a)(1) et seq } is the proper tribunal to enforce all benefits and/or RIGHTS GUARANTEED Herbert W.G. Clanton, the Defendant-Appellant, and/or this Petitioner by the UNITED STATES CONSTITUTION et seq{ see I AMENDMENT UNITED STATES CONSTITUTION, see V AMENDMENT UNITED STATES CONSTITUTION, see XIV AMENDMENT UNITED STATES CONSTITUTION } et seq.

5). The United States Federal District Court et seq{ see 28 USCA 102(a)(1) et seq } is an appropriate judiciary to enforce any and all benefits and/or RIGHTS GUARANTEED Herbert W.G. Clanton, the Defendant/ Defendant-Appellant, and/or this Petitioner et seq by the **EQUAL PROTECTION CLAUSE OF THE CONSTITUTION et seq**{ see Article I, Section 2 Michigan Constitution et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }.

6). The United States Federal District Court et seq is an appropriate judiciary to enforce any and all benefits and/or RIGHTS GUARANTEED Herbert W.G. Clanton, the Defendant-Appellant, and/or this Petitioner by the **DUE PROCESS CLAUSE OF THE CONSTITUTION**{ see Article I, Section 17 Michigan Constitution et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }.

7). It would be appropriate to relax the rules that Herbert W.G. Clanton, the Defendant-Appellant, and/or this Petitioner shall seek Redress Of Grievance pursuant to the benefits and/or RIGHTS GUARANTEED by the UNITED STATES CONSTITUTION{ see I AMENDMENT UNITED STATES CONSTITUTION, see V AMENDMENT UNITED STATES CONSTITUTION, and/or see XIV AMENDMENT UNITED STATES CONSTITUTION}.

8). It would be appropriate to award Herbert W.G. Clanton, the Defendant-Appellant, and/or this Petitioner reliefs from all court's fees et seq/et al and/or court cost et seq.

9). It would be appropriate to award Herbert W.G. Clanton and/or this Petitioner any and all other reliefs deemed fit by the UNITED STATES SUPREME COURT{ see ARTICLE III UNITED STATES CONSTITUTION et seq[see ARTICLE VI(2) UNITED STATES CONSTITUTION et seq]}.

10). The UNITED STATES SUPREME COURT et seq has jurisdiction pursuant to 28 USCA 2101 et seq.

11). The UNITED STATES SUPREME COURT et seq has jurisdiction pursuant to 28 USCA 1257 et seq.

12). The UNITED STATES SUPREME COURT et seq has jurisdiction pursuant to Supremacy Clause, Art III, Art. IV.

WHEREFORE, Herbert W.G. Clanton and/or this Petitioner do seek a minimum reliefs as follow(s):

I). OVERTURN, orders of the 3RD Circuit Court for violations of the United States Constitution et seq.

II). SET ASIDE, State Appeals Court orders for violations of the United States Constitution et seq.

III). SET ASIDE, State Supreme Court orders for violations of the United States Constitution et seq.

IV). REMAND, Redford Township -v- Herbert W.G. Clanton et seq pursuant to enforcements of all of Petitioner's benefits and/or RIGHTS GUARANTEED by the UNITED STATES CONSTITUTION et seq.

V). AWARD, Herbert W.G. Clanton and/or this Petitioner all others reliefs the court deems' fit.

VI). AWARD, Herbert W.G. Clanton and/or this Petitioner et seq reliefs from costs.

STATEMENTS IN SUPPORT OF PETITIONS

The Appellate Review Petition and/or Appeal Of Rights in the subjects matters of Redford Township -v- Herbert W.G. Clanton:17TH District Court Docket No:96J00614;3RD Circuit Court Docket No:96-648417 et seq was commenced and/or put forth by Herbert W.G. Clanton, the Defendant-Appellant, and/or this Petitioner in accordance with MCR 7.101(A)(1), see I AMENDMENT UNITED STATES CONSTITUTION et seq, see U.S. v. State Of Mich., D.C.Mich.1978, 460 F. Supp. 637.

The fact that Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner did order transcripts as required by MCR 7.101(C)(2)(d) et seq is established where Charmaine A. Ziegeler{ 17TH District Court Reporter

et seq } did put forth to Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner directive as to what was required to secure transcripts, see "PETITIONER ITEM A et seq", see Bolling v. Sharpe, App.D.C.1954, 74 S.Ct. 693, 347 U.S. 497, 98 L.Ed. 884, supplemented 75 S.Ct. 753 , 349 U.S. 294, 99 L.Ed. 1083.

WHEREIN RECOGNITION, of the fact 17TH District Court Reporter{ Charmaine A. Ziegeler } did put forth directives being relevant to the securing of transcripts in response to request of Herbert W.G. Clanton, the Defendant-Appellant, and/or this Petitioner it is at a minimum appropriate to find the assertions and/or orders of the Wayne County Circuit Court/MCLA 600.504/MSA 27A.504{ HON. Jeanne Stempien see Article VI, Section 1 Michigan Constitution et seq } to be at a minimum misleading, false, fraudulent, and/or in violations of Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner benefits and/or RIGHTS GUARANTEED by the Equal Protection Clause Of the Constitution{ see Article I, Section 2 Michigan constitution et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq } and/or the DUE PROCESS CLAUSE OF THE CONSTITUTION{ see Article I, Section 17 Michigan Constitution et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq, and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }, see Ross v. Moffitt, N.C.1974, 94 S.Ct. 2437, 417 U.S. 600, 41 L.Ed.2d 341.

IT IS STATEMENTS OF FACTS, that the 17TH District Court is without justifiable reasons and/or authority to refuse to receive Certified Letters{ Certified Letter[P 602 654 833](see Petitioner Exhibit A), Certified Letter[P 602 654 735](see Petitioner Exhibit B), Certified Letter[P 201 807 417](see Petitioner Exhibit C et seq)}, see McLaughlin v. Great Lakes Dredge & Dock Co., D.C.Ohio, 495 F. Supp. 857.

IN RECOGNITION OF THE FACT(S), that Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner did inform, address, and/or respond to the 17TH Judicial District Court/MCLA 600.8121/MSA 27A.8121{ see Article VI, Section 1 Michigan Constitution et seq } by means of United States Postal Certified Mail { Certified Letter[P 602 654 833](see Petitioner Exhibit A), Certified Letter[P 602 654 735](see Petitioner Exhibit B), Certified Letter[P 201 807 417](see Petitioner Exhibit C et seq)},the fact that the unjust conducts of the 17TH Judicial District Court/MCLA 600.8121/MSA 27A.8121{ see Article VI, Section 1 Michigan Constitution et seq } resulted in refusal to receive letters and/or communications is at a minimum proof and/or evidence that the orders and/or directives of the 17TH Judicial District Court et seq, the Wayne County Circuit Court et seq, the Michigan Court Of Appeals et seq, and/or the Michigan Supreme Court et seq whereas to let stand and/or endorse conduct of the 17TH Judicial

District Court/MCLA 600.8121/MSA 27A.8121{ see Article VI, Section 1 Michigan Constitution et seq }, to unjustly reject, hinder, impede and/or obstruct(s) Appellate Proceeding et seq/et al do at a minimum constitute violations of the **EQUAL PROTECTION CLAUSE OF THE CONSTITUTION et seq**{ see Article I, Section 2 Michigan Constitution et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq } and/or the **DUE PROCESS CLAUSE OF THE CONSTITUTION**{ see Article I, Section 17 Michigan Constitution et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq, and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }, see Lee v. Habib, 1970, 424 F.2d 891, 137 U.S. App.D.C. 403.

IT IS THE BELIEF'S, of Herbert W.G. Clanton, and/or this Petitioner that it is at a minimum fitting to find the conducts resulting in the failures of the 17TH District Court/MCLA 600.8121/MSA 27A.8121 et seq to receive Certified Letters{ Certified Letter[P 602 654 833](see Petitioner Exhibit A), Certified Letter[P 602 654 735](see Petitioner Exhibit B), Certified Letter[P 201 807 417](see Petitioner Exhibit C et seq)}, as proof and/or proof(s) of unfounded actions and/or statements of fraud and/or collusion against Herbert W.G. Clanton, the Defendant-Appellant and/or this Petitioner, see 18 USCA 241 et seq{ see V AMENDMENT UNITED STATES CONSTITUTION et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq } and/or see

18 USCA 242 et seq{ see V AMENDMENT UNITED STATES CONSTITUTION et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }, see U.S. v. Patrick, C.C.Tenn.1893, 54 F. 338;see Newbern v. Lake Lorelei, Inc., D.C.Ohio 1968, 308 F.Supp. 407.

IT WOULD BE AT A MINIMUM APPROPRIATE, to remand the subject matters of Redford Township -v- Herbert W.G. Clanton;17TH District Court Docket No:96J00614;3RD Circuit Court Docket No:96-648417;Michigan Appeals Court Docket No:201964; Michigan Supreme Court Docket No:112620 et seq to the United States Federal District Court et seq{ see 28 USCA 102(a)(1) et seq } pursuant to a minimum of enforcements of all benefits and/or RIGHTS GUARANTEED by the Michigan Constitution et seq{ see Article I, Section 2 Michigan Constitution et seq, see Article I, Section 13 Michigan Constitution et seq, see Article I, Section 17 Michigan Constitution et seq, and/or see Article VI, Section 1 Michigan Constitution et seq } and/or the UNITED STATES CONSTITUTION { see I AMENDMENT UNITED STATES CONSTITUTION et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq, and/or see XIV AMENDMENT UNITED STATES CONSTITUTION }.

CONCLUSION(S)

The person of Herbert W.G. Clanton and/or this Petitioner et seq is unjustly denied the benefits and/or RIGHTS GUARANTEED by the UNITED STATES

CONSTITUTION{ see I AMENDMENT UNITED STATES CONSTITUTION et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq, and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }, where ambiguous Administrative Policies et seq and/or Unjust Conduct of the Clerk Of the Michigan 17TH District Court et seq shall refuse to receive to payments and/or lawful correspondence, see **EQUAL PROTECTION CLAUSE OF THE CONSTITUTION et seq**{ see Article I. Section 2 Michigan Constitution et seq and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq } and/or see **DUE PROCESS CLAUSE OF THE CONSTITUTION**{ see Article I. Section 17 Michigan Constitution et seq, see V AMENDMENT UNITED STATES CONSTITUTION et seq, and/or see XIV AMENDMENT UNITED STATES CONSTITUTION et seq }, see Lee v. State Of Fla.1968, 88 S.Ct. 2096, 392 U.S. 378, 20 L.Ed.2d 1166.

COUNSEL ASSISTANCE REQUEST

It is the understanding and/or belief of Herbert W.G. Clanton et seq and/or this Petitioner et seq that it would be appropriate for the United States Supreme Court et seq to relax all rules and/or assign counsel in where it is the understanding of Herbert W.G. Clanton et seq and/or this Petitioner et seq that any and all assistance has been denied by the Office Of the United States Attorney General, see PETITIONER EXHIBIT D et seq.

APPENDIX A

STATE OF MICHIGAN
MICHIGAN SUPREME COURT

PEOPLE OF THE CHARTER TOWNSHIP OF REDFORD,

Plaintiffs-Appellees,

-v-

SOA:112620
COA:201964
CC:96648417AV
DC:96J00614

HERBERT W.G. CLANTON,

Defendant-Appellant.

ORDER

On order of the Court, the motion for reconsideration of this Court order's of January 26, 1999 is considered, and it is DENIED, because it does not appear that the order was entered erroneously.

S/CARBON R. DAVIS
Chief Clerk

APPENDIX B

STATE OF MICHIGAN
MICHIGAN SUPREME COURT

PEOPLE OF THE CHARTER TOWNSHIP OF REDFORD,

Plaintiffs-Appellees,

-v-

SOA:112620
COA:201964
CC:96648417AV
DC:96J00614

HERBERT W.G. CLANTON,

Defendant-Appellant.

ORDER

On order of the Court, the application for leave to appeal is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

S/CARBON R. DAVIS
Chief Clerk

APPENDIX C

STATE OF MICHIGAN
MICHIGAN COURT OF APPEALS

Redford Twp v Herbert W.G. Clanton

Docket # 201964

L.C.# 96648417 AV

Hilda R. Gage
Presiding Judge
E. Thomas Fitzgerald
William C. Whitbeck
Judges

ORDER

The Court orders that application for leave to appeal is DENIED for lack of merit on the grounds presented.

S/Ella Williams
Chief Clerk

APPENDIX D

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

REDFORD TOWNSHIP, Case:96648417AV

Plaintiffs-Appellees,

-v-

HERBERT W.G. CLANTON,

Defendant-Appellant.

Order Dismissing Appeal

At a session of said Court held in the County of Wayne, State Of Michigan On: Feb 21, 1997

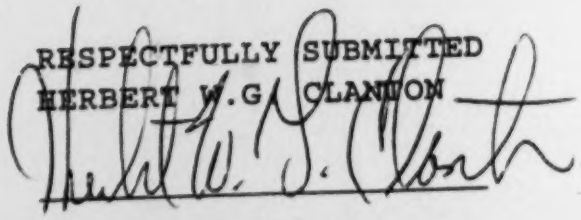
Present: Hon. Jeanne Stempien

An appeal having been filed, a scheduling notice having been mailed and the court being further advised in the premises: IT IS HEREBY ORDERED that Appellant Herbert W.G. Clanton's appeal is dismissed for failure to properly perfect his appeal by ordering a copy of the full transcripts and securing payment for it as required by NCR 7.101(C)(2)(d) and MCR 7.101(F). The appeal is dismissed pursuant to MCR 7.101(G).

JEANNE STEMPIEN
Circuit Court Judge

S/{CANT READ NAME}
Wayne County Clerk
Teola P. Hunter

RESPECTFULLY SUBMITTED
HERBERT W.G. CLANTON



DRAFTED BY: HERBERT W.G. CLANTON
IN PROPRIA PERSONA
P.O. Box 6654
East Lansing, MI 48826

DATE: 12.29.1999

"I, declare the foregoing and above is true to the best of my beliefs', information, and/or knowledge(s)".

Put Forth to the United States Supreme Court by means of United States Postal Certified Mail(P 238 143 612).

Supreme Court, U.S.
FILED
FEB 4 2000
CLERK

(2)

No. 99-1130

IN THE
Supreme Court of the United States

HERBERT W. G. CLANTON,

Petitioner,

v.

PEOPLE OF THE CHARTER TOWNSHIP OF REDFORD,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE MICHIGAN COURT OF APPEALS

RESPONDENT'S BRIEF IN OPPOSITION

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7 pp

QUESTION PRESENTED

Whether the dismissal of Petitioner's appeal for failure to perfect the appeal constitutes a violation of his constitutional rights?

STATEMENT OF THE CASE

This case began in the State District Court where Petitioner Herbert Clanton faced a civil infraction ticket for speeding. In response, Mr. Clanton asserted a counter claim alleging violations of his constitutional rights. The District Court granted the Township's motion to dismiss Clanton's counter claim. Mr. Clanton appealed the District Court's decision to the Wayne County Circuit Court. Judge Jeanne Stempien of the Wayne County Circuit Court dismissed Clanton's appeal for failure to properly perfect his appeal. After the Michigan Court of Appeals denied Mr. Clanton's appeal from the decision of the Circuit Court, he filed an Application for Leave to Appeal with the Michigan Supreme Court. On January 26, 1999, the Michigan Supreme Court entered an Order denying Petitioner's Application for Leave to Appeal. Petitioner's Motion for Rehearing was denied by the Michigan Supreme Court.

REASONS FOR DENYING THE WRIT

THIS COURT SHOULD DENY THE PETITION FOR WRIT OF CERTIORARI BECAUSE DEFENDANTS' APPEAL WAS PROPERLY DISMISSED FOR FAILURE TO PERFECT THE APPEAL AND HIS CONSTITUTIONAL RIGHTS WERE NOT VIOLATED.

In the instant case, Petitioner argues that the Circuit Court erred in dismissing his appeal and that the denial of his Application for Leave to Appeal by the Michigan Supreme Court and the Court of Appeals constitutes a denial of due process and equal protection of the law in violation of the Michigan and the United States Constitutions.

There is no basis in law for Petitioner's argument. Petitioner's appeal was properly dismissed for failing to comply with the court rules for perfecting an appeal.

MCR 7.101(C)(2)(d) specifically requires that the appellant must order a copy of the full transcript and secure payment for it:

> **(C) Manner of Taking an Appeal; Appeal of Right.**
>
> * * *
>
> (2) Other Requirements. In addition to doing the acts required by subrule (C)(1), no later than the time the claim of appeal is filed, the appellant must do the following:
>
> * * *
>
> (d) Order in writing a copy of the full transcript and secure payment for it. On the appellant's motion, with notice to the appellee, the trial court may order that a lesser portion, or none, of the proceedings be transcribed . . .

Further, MCR 7.101(F) provides that the appellant must file with the trial court the transcripts:

> **(F) Record on Appeal.**
>
> (1) Within 28 days after filing the claim of appeal, the appellant must file with the trial court the transcript or a copy of the reporter's or recorder's certificate and a statement that the transcript is not yet available.

Read together, the above court rules make clear that it is the appellant's duty to ensure that the proper steps have been

taken so that the transcript would be forwarded to the Circuit Court. These steps include the ordering of the transcript and securing payment for it. The appellant could file with the Court the transcript or a copy of the reporter's or recorder's certificate and statement that the transcript is not yet available.

In the instant case the Petitioner failed to take any of the required steps to provide the Court with the transcript.

The transcript of the relevant proceedings is essential to appellate review. Thus, the appellant's appeal is subject to dismissal if the appellant fails to make the transcript available to the appellate court. MCR 7.101(G) gives the Court the authority to dismiss the appeal under these circumstances:

> **(G) Dismissal of an Appeal.** If an appellant does not comply with subrule (C)(2) or (F)(1) the appeal may be considered abandoned, and the trial court may dismiss the appeal on seven days notice to the parties, unless the trial court or circuit court has granted a motion for further time. The trial court clerk must promptly notify the circuit court of a dismissal, and the circuit court shall dismiss the claim of appeal . . .

Consistent with the court rules, Michigan Courts have repeatedly held that the appellant's failure to provide the Court with the transcript precludes appellate review. In *McKim v Green Oak Twp Bd*, 158 Mich. App. 200, 404 N.W. 2d 658 (1987), the defendant/appellant contended that the trial court erred in awarding plaintiff attorney fees. The Court of Appeals held that the issue of the award of attorney fees was abandoned on appeal because the appellant failed to provide the court with the transcript. The Court concluded:

> In this case, defendants have not provided this court with a transcript of the hearing at which the trial court ruled that defendant was entitled to attorney fees. It is therefore impossible for us to determine whether . . . the trial court properly exercised its discretion in making the award. Defendants must be deemed to have abandoned the issue on appeal. 158 Mich App at 208.

In *Nye v Gable, Nelson & Murphy*, 169 Mich. App. 411; 425 N.W. 2d 797 (1988), the Court of Appeals in affirming summary disposition in favor of defendant/appellees stated:

> Given plaintiff's failure to secure a transcript of the motion hearing, we are unable to review the trial court's decision to determine if it erred in concluding that the applicable period of limitation had run since, without the necessary transcripts, we have no way of knowing the basis of the trial court's ruling. We believe it inappropriate to conclude that the trial court was wrong when we do not even know the trial court's reasoning or have benefit of reviewing the arguments made before the trial court at the motion hearing. 169 Mich App at 413.

In the instant case, the Petitioner failed to order the transcript or to take the necessary steps to provide the Court with the transcript.

Contrary to Petitioner's argument, the dismissal of his appeal and denial of his Application for Leave to Appeal for failure to perfect his appeal does not constitute a violation of his constitutional rights. The United States Supreme Court in *Logan v Zimmerman v Brush Co.*, 455 U.S. 422, 437 (1982), held that the state may properly adopt reasonable

procedural requirement for triggering the right of adjudication and that termination of a claim for failure to comply with reasonable procedural rule does not constitute a denial of due process. Similarly, in the instant case, the rule requiring Petitioner to perfect his appeal is not a violation of his constitutional rights, but rather a necessary and reasonable procedure for effective exercise of appellate review. Since Petitioner failed to comply with the reasonable procedural rule requiring him to secure the transcript of the relevant proceedings, appellate review was precluded and the dismissal of his appeal as well as the denial of his Application to appeal was warranted.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that this Honorable Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

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